

UNITED STATES DISTRICT COURT
for the

Western District of North Carolina

United States of America)	
v.)	
RUSSELL GARNET TURNER)	Case No: <u>5:99CR71-5</u>
)	USM No: <u>15130-058</u>
Date of Previous Judgment: <u>August 13, 2001</u>)	<u>Tanzania Cannon-Eckerle</u>
(Use Date of Last Amended Judgment if Applicable))	Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>34</u>	Amended Offense Level: <u>32</u>
Criminal History Category: <u>VI</u>	Criminal History Category: <u>VI</u>
Previous Guideline Range: <u>Life</u> to <u>Life</u> months	Amended Guideline Range: <u>360</u> to <u>360</u> months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction as the original sentence in this case was limited to the statutory maximum of 360 months by *Apprendi v. New Jersey*, which then became the applicable guideline range, per USSG §5G1.1(a). (A Notice under 21 U.S.C. § 851 was granted, which enhanced the statutory minimum sentence to a term of Life)


III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated August 13, 2001, shall remain in effect.

IT IS SO ORDERED.

Order Date: August 5, 2011

Effective Date: August 5, 2011
(if different from order date)


Richard L. Voorhees
United States District Judge

